

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 10TH APRIL 2007 / 20TH CHAITHRA 1929

INSURANCE APPEAL No.59 of 2004

I.C.A.NO.36/2002 OF THE EMPLOYEES' INSURANCE COURT, ALAPPUZHA

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APPELLANT/OPPOSITE PARTY:-

REGIONAL DIRECTOR,
(REGIONAL OFFICE, KERALA)
PANCHADEEP BHAVAN,
N.S.ROUND, TRICHUR-20.

BY ADV. SRI.P.SANKARANKUTTY NAIR

RESPONDENTS: APPELLANTS:-

1. K.M.KHALID, S/O. K.M.MUSTAFA,
(INSURANCE NO.54-275195), KOLLAMKUDI HOUSE,
EDATHALA NORTH P.O., ALUVA -5.
2. CHIEF EXECUTIVE, M/S. GTN TEXTILES,
ERUMATHALA, EMMEKETTE P.O., ALUVA.

R1 BY ADV.SRI.A.V.XAVIER

R2 BY ADV.SRI.A.M.SHAFFIQUE
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR

SRI.JOLLY JOHN
SRI.K.JOHN MATHAI
SRI.P.BENNY THOMAS

THIS INSURANCE APPEAL HAVING BEEN FINALLY HEARD
ON 10/04/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:-

K.Padmanabhan Nair,J.

Insurance Appeal No.59 of 2004

Dated, this the 10th day of April, 2007

JUDGMENT

The Employees' State Insurance Corporation has filed this appeal challenging a decision of the Insurance Court by which it had allowed an appeal filed by the employee to treat him as a case of 100% disability.

2. The 1st respondent was an employee working in a textile mill, by name M/s.G.T.N.Textiles, Erumathala, Aluva. He was working as a Winder and covered by the Employees' Insurance Scheme also. According to 1st respondent, he developed breathing problem due to the consistent contact with the cotton dust and he has to be hospitalised. Ultimately, he found it difficult to attend the work at all. He was examined by a Medical Board, who fixed his disability at 20%. Challenging that decision, the employee filed appeal before the Insurance Court, contending that it must be treated as a case of total disablement. The Insurance Court accepted the contention and found that the 1st respondent is disabled to the extent of 100%. Challenging that decision, the Corporation has filed this appeal.

3. The evidence on record shows that the petitioner was undergoing treatment for a pretty long time. Exhibits P4 and P5 are the two certificates produced by the 1st respondent showing that he was undergoing treatment. It is proved that the 1st respondent was receiving salary for National Holidays, Sundays, etc. alone and he was not attending to the work because of his illness. It is true that the Board has fixed the disability at 20%. But, considering the entire evidence, the E.I.Court found that it is a case of total disability and employee is not able to attend to any work because of his disease and treated this as a case of total disability. That is a question of finding of fact, based on good evidence. I do not find any reason to interfere with that finding. So, the appeal is only to be dismissed.

In the result, the appeal is dismissed.

There will be a direction to the appellant-Corporation to pay the benefits due to the 1st respondent as expeditiously as possible.

K.Padmanabhan Nair
Judge

vku/-